

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

KASHNER DAVIDSON SECURITIES CORP.,

Plaintiff,

V.

STEVEN MSCISZ, MARK MSCISZ &
LYNDA MSCISZ,

Defendants.

Case No. 05-CV-11433-JLT

STIPULATION

Through their attorneys, the defendants, Steven Mscisz, Mark Mscisz and Lynda Mscisz (collectively “Customers”), the plaintiff, Kashner Davidson Securities Corporation (“KDSC”), and non-parties Victor Kashner, Timothy Varchetto and Matthew Meister (collectively “Individual Brokers”) **AGREE** and **STIPULATE** as follows:

- a. Although the Customers have answered “Plaintiff’s Complaint and Application to Confirm an Arbitration Award and Entry of Judgment” (“Complaint”), they hereby consent to the amendment of KDSC’s Complaint within ten (10) days after the filing of this Stipulation, with the understanding that the Individual Brokers, none of whom is a citizen of the Commonwealth of Massachusetts, shall join in that amended pleading as plaintiffs;
- b. Pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, the Customers shall respond to the amended Complaint within ten (10) days after service and filing of that pleading, asserting as counterclaims the claims they asserted in *Steven Mscisz, et al. v. Kashner Davidson Securities Corp., et al.*, Case No. 05-cv-11331-JLT, in which they filed a Notice of Dismissal contemporaneously with the filing of this Stipulation in the captioned action;

- c. Pursuant to Rule 12(a)(2) of the Federal Rules of Civil Procedure, KDSC and the Individual Brokers shall respond to the Customers' counterclaims within twenty (20) days after their filing;
- d. Pursuant to Rule 15(c) of the Federal Rules of Civil Procedure, all pleadings filed pursuant to paragraphs (a) through (c) of this Stipulation shall relate back to the commencement of this civil action in Suffolk Superior Court;
- e. Although it was originally filed in Suffolk Superior Court and removed to this Court, this civil action shall hereafter proceed as if it were originally filed in this Court, upon which 28 U.S.C. §§ 1331 and 1332 confer original jurisdiction over its subject matter; and
- f. Pursuant to Local Rule 83.5.3(b), Marc J. Ross, Esquire and Richard J. Babnick, Jr., Esquire of the New York Bar shall, contemporaneously with the filing of the amended Complaint, seek the Court's leave to appear *pro hac vice* in the captioned action on behalf of KDSC and the Individual Brokers, and the Customers hereby assent to the allowance of those motions.

KASHNER DAVIDSON SECURITIES CORP.,
VICTOR KASHNER,
TIMOTHY VARCHETTO &
MATTHEW MEISTER

STEVEN MSCISZ,
MARK MSCISZ &
LYNDA MSCISZ,

By their attorney,

By their attorney,

/s/ Howard M. Smith

/s/ William P. Corbett, Jr.

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